



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

VALE DISTRICT

100 Oregon Street

Vale, Oregon 97918

<http://www.or.blm.gov/Vale/>

## **Documentation of Land Use Plan Conformance and NEPA Adequacy Owyhee Fire (HM3X) Stabilization and Rehabilitation Plan DNA**

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Office: Malheur Field Office

Tracking Number: V040-2013-047

Proposed Action Title/Type: Owyhee Fire Emergency Stabilization and Rehabilitation

Location: See attached map

### **A. Describe the Proposed Action**

#### ***Background***

The Owyhee fire was started on 7/01/2013 by lightning and was contained on 07/07/2012 after burning a total of 46,501 acres. The location of the fire is identified on Map 1.

#### ***Planned Actions***

The area burned by Owyhee Fire is in need of treatment to ensure desirable vegetation will stabilize the site and prevent invasion of undesirable and or noxious weeds. This can be met by protecting the area from grazing during a period necessary for establishment and recovery of health and vigor of desired vegetation by constructing 25 miles of temporary fence. Additionally, seven wildlife watering guzzlers would be repaired to restore water for wildlife. The site will be monitored for the establishment of noxious weeds. If found, they would be treated in accordance with national and district guidelines for noxious weed treatment.

The vegetation on the area burned by the fire was dominated by Wyoming big sagebrush, bunchgrass, and annual grasses. Monitoring of the burn area would consist of livestock use supervision and vegetation recovery monitoring.

The Owyhee Fire Emergency Stabilization and Rehabilitation Plan further details planned actions.

### **B. Land Use Plan (LUP) Conformance**

List applicable LUPs (e.g., Resource Management Plans and activity, project, management, or program plans, or applicable amendments thereto).

LUP Name Southeastern Oregon Resource Management Plan (SEORMP) Date Approved 2002

☒ The proposed action is in conformance with the applicable LUPs because it is specifically provided for in the following LUP decisions:

Southeastern Oregon Resource Management Plan

Rangeland Vegetation,  
pages 38-41  
Wildlife Habitat  
Pages 50-51

### **C. Identify applicable NEPA documents and other related documents that cover the proposed action.**

List by name and date all applicable NEPA documents that cover the proposed action.

Vale District Normal Emergency Stabilization and Rehabilitation Plan (NFESRP) Environmental Assessment (2005)

Draft (1998) and Final (2001) Environmental Impact Statement prepared for the Southeastern Oregon Resource Management Plan

Vale District Integrated Weed Control Plan EA (1989)

Northwest Area Noxious Weed Control Program EIS (1987)

Final Programmatic Environmental Impact Statement and Environmental Report for Vegetation Treatments on Public Lands Administered by the Bureau of Land Management in the Western United States, Including Alaska (2007)

The Final EIS for Vegetation Treatments Using Herbicides on BLM Lands in Oregon (2010)

List by name and date other documentation relevant to the proposed action (e.g., biological assessment, biological opinion, watershed assessment, allotment evaluation, and monitoring report).

None

### **D. NEPA Adequacy Criteria**

**1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?**

Documentation of answer and explanation: The current proposed actions are identified in the Vale District NFESRP (Natural recovery, pg 6; Temporary fencing, pg 11; Weed control, pg. 9; Design features, pg.13&14) and are substantially the same actions as analyzed in that document.

**2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the current proposed action, given current environmental concerns, interests, and resource values?**

Documentation of answer and explanation: The NFESRP and SEORMP analyzed a range of alternatives including no action with respect to current concerns, interests and resource values.

**3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, and updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?**

Documentation of answer and explanation: There is no significant new information or circumstances that would warrant additional analysis. The SEORMP FEIS anticipated the impact of fire on public land resources and resource values, considered a range of alternatives to address post-fire management, and analyzed the alternative consequences different potential management actions to respond to wildland fire impacts. The NFESRP Environmental Assessment comprehensively analyzed all proposed actions considered within the ESR plan.

Additionally, the following factors were specifically considered under BLM's Greater Sage-Grouse Interim management Policies and Procedures (IM 2012-043), and are reflected in proposed treatments in the ESR Plan:

- Integrated Vegetation Management:
  - Design treatments to: promote sagebrush communities; limit the expansion of invasive species; maintain or improve soil site stability, and hydrologic function and biological integrity.
- Wildfire Emergency Stabilization and Burned Area Rehabilitation:
  - Prioritize re-vegetation projects to: maintain and enhance intact sagebrush habitat.

There are, however, three developments since the NFESRP was signed (2005) that were specifically considered through the interdisciplinary effort in the analysis of the proposed ESR actions. These issues are specifically described below.

**Greater Sage-Grouse Management**

Nationwide, BLM is undergoing amendments to existing Resource Management Plans to address the health of Greater sage-grouse. Until those amendments are completed (scheduled decisions planned for late 2014), the following interim management applies.

In March, 2010 the U.S. Fish and Wildlife Service issued its finding that Greater Sage-Grouse are "warranted but precluded" for listing under the ESA (Notice, 75 FR 13910 – 14014; 03/23/2010). Thirty-eight scientists from federal, state and nongovernmental organizations collaborated to synthesize the information and findings on Greater Sage-Grouse, and compiled in Ecology and Conservation of Greater Sage-Grouse: a Landscape Species and its Habitats (Monograph, 2011). Following this, in December, 2011, the BLM issued Instruction Memorandum No. 2012-043 which provides interim management policies and procedures for Greater Sage-Grouse. Also released in December, 2011 was the BLM's A Report on National Greater Sage-Grouse Conservation Measures developed by the BLM's National Technical Team on Greater Sage-Grouse (NTT Report). Separately, the Oregon Department of Fish and Wildlife (ODFW) published the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat (ODFW Strategy, April, 2011). These documents provide the most current information on Sage-Grouse populations and habitat requirements and were reviewed for consistency with proposed actions within the Owyhee fire.

Information contained in the above research and policy clearly identifies fire as a significant factor in the loss of Greater Sage-Grouse habitat. The documents vary in their recommendations for post-fire response,

but are consistent in recommendations to temporarily resting burned areas from intensive use by off-highway vehicles and livestock grazing. Consistent in the literature is the slow natural expansion of sage brush species from remaining internal, unburned islands, or from sage brush communities at the edge of the burn.

In addition, the NTT Report recommends that new structures (BLM is considering the construction of eleven miles of temporary fencing to protect vegetation in rehabilitation in the burned area) address the following. Per NTT recommendations, marking of temporary fencing would be implemented if any section of the fence is within 1.25 miles of a known lek. At this time, no leks fit these criteria. Marking will be implemented should new information become available.

The new information and new circumstances would not substantially change the analysis in the NFESRP on the new proposed action.

**Lands found to have wilderness characteristics:**

The second issue arising since completion of the NFESRP EA was the finalization of a Settlement Agreement between the BLM and ONDA in response to a decision of the Ninth Circuit Court of Appeals, *ONDA v. BLM*, 625 F.3d 1092 (9th Cir. 2010), which upheld ONDA's challenge to the SEORMP. In part, the Settlement Agreement identified a need to update the BLM's inventory of wilderness characteristics resources within the SEO planning area, but outside of existing WSAs and designated Wilderness. This inventory has been completed. The Settlement Agreement also required the BLM to analyze the effects of any proposed projects on the identified wilderness characteristics through "NEPA processes". Amendment of the SEORMP began with public scoping in May, 2010, but that process has been delayed due to BLM's national planning effort in response to US Fish and Wildlife Service's warranted but precluded listing of Greater Sage-Grouse. Vale BLM will continue working on the Settlement Agreement as decisions and public input on Sage-Grouse planning is developed.

Vale BLM's agreement to analyze alternatives for management of lands with wilderness characteristics under NEPA has thus, not been completed. However, indicators of the effect of ESR treatments on wilderness characteristic values were considered through interdisciplinary team analysis:

The original wilderness inventory on all public lands in Oregon was completed in the between 1977 and 1989 (BLM Oregon Wilderness Environmental Impact Statement, December, 1989). The result of this inventory was the designation of approximately 1.3 million acres of Wilderness Study Areas within the SEORMP planning area. Those lands are managed under the Interim Management Plan (IMP).

Many lands found to not possess wilderness characteristics in the original inventory were found as such due to extensive mechanical treatments and range project developments that were implemented in the decade preceding the original inventory (Vale Project). In particular, the Vale Project provided Congressional-level funding to complete extensive landscape-level rangeland drill mechanical vegetation treatments. A component of wilderness characteristics inventory is how "natural" an area is to the casual observer; at the time of the original inventory, the recent Vale Project drill seedings were dominant in much of the landscape and led to findings that extensive areas were non-natural.

Between 2007 and 2012, as required by the Settlement Agreement, Vale BLM has completed wilderness characteristics inventories of all lands affected by the fire, including the area burned by the Owyhee fire. BLM conducted extensive field and interdisciplinary reviews of these lands and have published final findings. Interim management of Wilderness Study Areas provides clear direction that permits limited rehabilitation efforts, so long as no action negatively impacts wilderness values. While WSAs and lands found to possess wilderness characteristics are managed under separate authorities, the resources inventoried are identical.

Vale BLM management of public lands since the Wilderness Inventory and release of the Wilderness Study Report has led to conditions that have resulted in findings that certain additional areas now possess wilderness characteristics. Within the burned area, approximately 13,366 acres have been determined to possess wilderness characteristics. While this does not suggest that these lands warrant wilderness designation (suitability recommendations for Wilderness designation of Wilderness Study Areas are provided in BLM Wilderness Study Report, October, 1991), under the stipulations of the Settlement Agreement, any proposed actions will not be implemented which would cause either the ONDA recommendations or the Vale BLM wilderness characteristic units to not meet the minimum wilderness character criteria.

Treatments proposed in lands determined to have wilderness character were selected to maintain, protect and/or enhance values identified by BLM through the wilderness characteristics inventory. Proposed actions in lands found by BLM to have wilderness characteristics are consistent with actions addressed in the NFESRP that occur in Wilderness Study Areas. All proposed actions are designed to have only short-term, if any, impact to wilderness characteristics. The proposed actions will not have a permanent impact to either the size of the inventoried wilderness characteristics unit or the individual wilderness characteristics.

The BLM concludes that the proposed ESR actions will not have substantial or long term impacts on the wilderness characteristics and would not affect either the existing finding that a unit contains wilderness characteristics, diminish the size of the unit, or affect the eventual management direction made at the conclusion of the agreed-to RMP Amendment process to address lands with wilderness characteristics, and thus would not benefit from additional analysis.

The new information and new circumstances would not substantially change the analysis in the NFESRP on the new proposed action.

### **Revisions to the 6330 BLM Manual – Management of BLM Wilderness Study Areas**

The third issue arising since development of the NFESRP EA is issuance by BLM of the revised Manual 6330 (release 6-134), titled Management of Wilderness Study Areas on July 13, 2012. This revised manual provides staff with general policies for the administration and management of WSAs, which are part of the BLM's National Landscape Conservation System. The manual outlines procedures that ensure the Congressional mandate to manage Wilderness Study Areas in a manner that will not impair their suitability for designation as wilderness. Unless categorized as excepted under 1.6.C.2 of the manual, all proposed uses and/or facilities must meet the non-impairment standard (i.e. must be both temporary and not create surface disturbance) until Congress acts on the WSA by either designating the area as wilderness or releasing it for other purposes.

The BLM's management policy is to continue resource use on lands designated as WSAs in a manner that will not impair the area's suitability for preservation as wilderness. However, exceptions to the non-impairment standard are allowed under the 6330 Manual. Under the exceptions, the BLM will endeavor to minimize impacts to wilderness characteristics.

Fire is specifically identified as an emergency exception. The management response to a wildfire within a WSA may vary along a continuum from monitoring to suppression according to objectives outlined in the applicable Resource Management Plan (RMP) or Fire Management Plan (FMP) for the affected area. The response to a fire can change over the course of the event due to variations in weather, topography, fuels, and resources available. Managers will use a decision support process to guide and document wildfire management decisions. The process will: provide situational assessment; analyze hazards and risk; define implementation actions; and document decisions and rationale for those decisions. Regardless, the non-impairment standard will still be met to the extent practical, using "minimum impact suppression tactics"

wherever possible while providing for the safety of firefighters and the public and meeting fire management objectives. The overall goal may be affected by budgets, national fire management demands, suppression of fire on adjacent land before it moves into the WSA, or undesired consequences of wildfire moving out of the WSA that may pose a danger to human life and/or property.

There are no ESR projects proposed for the Owyhee fire burned area that would impact the values associated with designated WSAs.

The new information and new circumstances would not substantially change the analysis in the NFESRP EA for the new proposed action.

**4. Do the methodology and analytical approach used in the existing NEPA document(s) continue to be appropriate for the current proposed action?**

Documentation of answer and explanation: The methodology and analytical approach used in the NFESRP would continue to be appropriate for the proposed action.

**5. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?**

Documentation of answer and explanation: Direct and indirect impacts of the proposed action are substantially the same as those analyzed in the proposed action, pages 37-46 of the NFESRP and SEORMP. Cumulative impacts of the proposed action are substantially the same as those analyzed in the NFESRP on page 47 and SEORMP.

**6. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?**

Documentation of answer and explanation: The NFESRP and SEORMP were analysis documents reviewed by a diverse representation of publics, including federal, state and local agencies as well as private entities. The notice of availability of the Environmental Analysis and opportunity to comment on the NFESRP was sent to over 400 individuals, organizations, agencies, local governments, state governments, and federal governments.


**E. Interdisciplinary Analysis:**

The following team members conducting or participating in the preparation of this worksheet.

Randy Eyre	Fire Planner
Todd Allai	Soil Ecologist
Don Rotell	Supervisory NRS/Archeologist
Brian Watts	Fire Ecologist
Lynne Silva	Weeds Specialist
Susan Fritts	Botanist
Kevin Eldridge/ Becky Evans	Rangeland Management Specialist
Thomas "Pat" Ryan	Field Manager

## F. Conclusion

☒ Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan, and that the NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of NEPA.

  
\_\_\_\_\_  
Signature of the Responsible Official

  
\_\_\_\_\_  
Date

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision.



